THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.22352 OF 2006

DATED: 19-06-2007

Between

1. Smt. P. Nagamma and 3 others. … Petitioners

And

1. The District Collector, Kadapa and 3 others. … Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.22352 OF 2006

ORDER :

The petitioners herein claim to be the DWACRA groups working in Narayanapalli Village, Duvvur Mandal, Kadapa District.

The 4th respondent herein is the authorized dealer of the fair price shop of the said village having been appointed as such by the 2nd respondent vide proceedings dated 20-09-2006.

This writ petition is filed seeking a declaration that the alleged action of the respondents 1 to 3 in not cancelling the authorization of the 4th respondent in spite of the report submitted by the Station House Officer, Duvvur with regard to alleged diversion of rice as arbitrary and illegal.

It is alleged by the petitioners that the very appointment of the 4th respondent which was made without notifying the vacancy was not in accordance with law. That apart, the 4th respondent was indulging in various irregularities in distribution of essential commodities to the cardholders. It is also alleged that on 07-10-2006 at 10.45 pm the villagers of Narayanapalli Village found one Auto bearing No.AP-04-T-9771 running towards Duvvur carrying 14 rice bags and informed the same to the Police Station, Duvvur. Pursuant thereto, the Station House Officer, P.S. Duvvur seized the rice and handed over the same to the 3rd respondent along with a memo requesting to take action against the 4th respondent. The villagers had also made a representation dated 11-10-2006 requesting the respondents 1 to 3 to enquire into the matter and to take necessary action against the 4th respondent. However, the respondents 1 to 3 failed to take any action, but on the other hand they have been permitting the 4th respondent to lift the commodities for distribution to the cardholders. Hence, this writ petition.

I have heard the learned Counsel for both the parties and perused the material on record.

In response to the notice ordered, the Revenue Divisional

Officer, Jammalamadugu, Kadapa District filed a counter-affidavit stating that the vacancy caused due to the termination of the permanent dealer of Narayanapalli Village was notified on 20-6-2005 inviting applications from the eligible women candidates of SC category but no applications were received. Again re-notification was issued on 28-12-2005 but nobody had submitted the applications. In the circumstances, as per Clause-9 (iii) of G.O.Ms.No.53, dated 6-10-2003 which provides for giving priority to DWACRA groups and Thrift groups, proposals were called for from the Mandal Revenue Officer, Duvvur Mandal and on the basis of the same, the 4th respondent was appointed as fair price shop dealer on permanent basis vide proceedings dated 20-09-2006. So far as the alleged inaction on the part of the respondents 1 to 3 on the basis of the complaint made by the villagers, it is stated that though it is a fact that the Station House Officer, Duvvur had seized 14 bags of rice and submitted a report dated 9-10-2006, the physical verification of stocks made in the fair price shop of the 4th respondent revealed that the rice seized by the Station House Officer, Duvvur has nothing to do with the fair price shop in question. The cardholders have also stated that they are receiving essential commodities regularly from the 4th respondent dealer. Even the auto driver had stated that he brought the rice in auto from Chinnavangali Village of Chagalamarri Mandal of Kurnool District. In the circumstances, having found that the rice seized by the Station House Officer has nothing to do with the fair price shop of the 4th respondent, no action was initiated against the 4th respondent.

The averments made in the counter-affidavit stood unrebutted and nothing has been placed before this Court contradicting the same. As a matter of fact, the report of the Station House Officer, Duvvur, dated 7-10-2006, filed along with writ petition, itself shows that there was no specific allegation against the 4th respondent. The Station House Officer had only stated that his enquiry revealed that the

seized rice bags belong to Narayanapalli Village and therefore necessary action may be taken by conducting enquiry.

Even in the news item published in Vaartha Daily it was only stated that the 14 bags of rice was being taken in the auto from one house in Narayanapalli Village and that the said rice was presumed to be PDS rice meant for distribution to the cardholders. In the counter-affidavit, it has been explained that pursuant to the report given by the Station House Officer, necessary enquiry was conducted and the fair price shop was inspected and after physical verification of the stock, the officials were satisfied that the rice seized by the Station House Officer has nothing to do with the PDS rice released to the 4th respondent's fair price shop. There is absolutely no other material before this Court to disbelieve the version of the respondents 1 to 3.

In the circumstances, the alleged inaction on the part of the respondents 1 to 3 is unfounded and without any basis. Hence, the Writ of Mandamus as prayed for cannot be issued. However, it is made clear that this shall not preclude the respondents 2 and 3 to make necessary enquiry and take appropriate action following due process of law in case any fresh complaints are received with regard to the distribution of the essential commodities by the 4th respondent.

Writ Petition is accordingly disposed of. No costs.

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G. ROHINI, J.

Dt. 19-06-2007

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Note:- CC in one week.